

**Objection Deadline: September 29, 2021 at 4:00 p.m. (prevailing Eastern Time)**  
**Presentment Date: September 30, 2021 at 9:00 a.m. (prevailing Eastern Time)**

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*Counsel for the Wind Down Debtors*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

_____	)	
In re:	)	Chapter 11
	)	
BARNEYS NEW YORK, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 19-36300 (CGM)
	)	
Debtors.	)	(Jointly Administered)
_____	)	

**NOTICE OF PRESENTMENT OF WIND DOWN DEBTORS' MOTION FOR ENTRY  
OF A FINAL DECREE CLOSING CHAPTER 11 CASES**

**PLEASE TAKE NOTICE** that on September 22, 2021, the above-captioned reorganized debtors (the "Wind Down Debtors") filed the *Wind Down Debtors' Motion for Entry of a Final Decree Closing Chapter 11 Cases* (the "Motion").

**PLEASE TAKE FURTHER NOTICE** that an order, substantially in the form attached to the Motion at **Exhibit A** (the "Proposed Order"), will be presented for signature by the Honorable Cecilia G. Morris of the United States Bankruptcy Court for the Southern District of New York (the "Court"), on **September 30, 2021 at 9:00 a.m. (prevailing Eastern Time)**.

<sup>1</sup> The Wind Down Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Barneys New York, Inc. (1818); Barney's Inc. (2980); BNY Catering, Inc. (4434); BNY Licensing Corp. (4177); and Barneys Asia Co. LLC (0819). The location of the Wind Down Debtors' service address is c/o Christopher A. Good, as Plan Administrator, M3 Advisory Partners, LP, 1700 Broadway, 19th Floor, New York, NY 10019.

**PLEASE TAKE FURTHER NOTICE** that any party-in-interest wishing to submit a response or objection to the Motion must do so in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the Court, and such response or objection must be in writing and set forth the basis therefor, which response or objection must be filed with the Court in accordance with General Order M-399.

**PLEASE TAKE FURTHER NOTICE** that unless a written objection to the Motion, with proof of service, is filed with the Clerk of the Court, and a courtesy copy is delivered to the undersigned counsel and to the chambers of the Honorable Cecilia G. Morris so as to be received by no later than **September 29, 2021 at 4:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”), the Wind-Down Debtors shall, on or after the Objection Deadline, submit the Proposed Order to the Court, which order the Court may enter without further notice or opportunity to be heard.

**PLEASE TAKE FURTHER NOTICE** that copies of the Motion may be viewed on the Court’s website at <http://www.ecf.nysb.uscourts.gov> or at the website maintained by the Wind-Down Debtors’ claims and noticing agent, Stretto, at <https://case.stretto.com/barneys/docket>.

Dated: September 22, 2021  
New York, NY

/s/ Steven J. Reisman  
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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	)	
	)	Chapter 11
BARNEYS NEW YORK, INC., <i>et al.</i> , <sup>1</sup>	)	
	)	Case No. 19-36300 (CGM)
Debtors.	)	
	)	(Jointly Administered)

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**WIND DOWN DEBTORS' MOTION FOR ENTRY OF A FINAL DECREE CLOSING  
CHAPTER 11 CASES**

The above-captioned reorganized debtors (the “Wind Down Debtors”) hereby submit this motion (the “Motion”) pursuant to section 350(a) of title 11 of the United States Code (as amended, the “Bankruptcy Code”), Rule 3022 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 3022-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), for entry of a final decree closing the above-captioned Chapter 11 Cases (the “Chapter 11 Cases”) and granting

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<sup>1</sup> The Wind Down Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Barneys New York, Inc. (1818); Barney’s Inc. (2980); BNY Catering, Inc. (4434); BNY Licensing Corp. (4177); and Barneys Asia Co. LLC (0819). The location of the Wind Down Debtors’ service address is c/o Christopher A. Good, as Plan Administrator, M3 Advisory Partners, LP, 1700 Broadway, 19th Floor, New York, NY 10019.

related relief, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”). In support of the Motion, the Wind Down Debtors respectfully represent as follows:

### **JURISDICTION AND VENUE**

1. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief requested herein are sections 105(a) and 350(a) of the Bankruptcy Code, Bankruptcy Rule 3022, and Local Rule 3022-1.

### **BACKGROUND**

4. On August 6, 2019, each of the Wind Down Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On August 7, 2019, the Court entered an order authorizing the joint administration and procedural consolidation of the Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b). [Docket No. 41].

5. On August 15, 2019, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Committee”). [Docket No. 131].

6. On February 5, 2020, the Court entered an order [Docket No. 789] (the “Confirmation Order”) confirming the *Joint Chapter 11 Plan of Barneys New York, Inc. and its Debtor Affiliates* (the “Plan”).<sup>2</sup> The Effective Date of the Plan occurred on February 11, 2020.

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<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings assigned to them in the Plan.

7. On the Effective Date, the Plan was deemed to be substantially consummated under sections 1101(2) and 1127(b) of the Bankruptcy Code, pursuant to paragraph 129 of the Confirmation Order.

8. Approximately 7,000 claims were filed or asserted in the Chapter 11 Cases, including approximately 1,470 claims seeking administrative or priority status.

9. The Wind Down Debtors, under the direction of the Plan Administrator and with the assistance of his advisors, undertook a thorough review and reconciliation of such claims against their books and records. The Wind Down Debtors sought in some instances to informally resolve claims without objection, and formally objected to certain other claims pursuant to a series of omnibus objections to claims. The Court has entered orders granting each of the omnibus objections, as modified to reflect various agreements between the Wind Down Debtors and claimants that resolved formal or informal responses from such claimants. The Wind Down Debtors have now substantially completed their claim reconciliation, and no claims objections remain pending with the Court.

10. In January 2021, the Wind Down Debtors commenced making initial distributions to Holders of Allowed Administrative Claims and Allowed Priority Tax Claims in accordance with the Plan and Confirmation Order. The Wind Down Debtors have made distributions to Holders of Allowed Administrative Claims and Allowed Priority Tax Claims equal to 10% of such claims, subject to (i) receipt of information necessary to make tax withholding with respect to certain claimants, and (ii) holdback of distributions that would be less than \$100, in accordance with the terms of the Plan. The Wind Down Debtors anticipate that further distributions in excess

of 10% may be made to Holders of Allowed Administrative Claims and Allowed Priority Tax Claims in the future, but timing and amount of such distributions remain uncertain.<sup>3</sup>

11. The Wind Down Debtors have paid to the U.S. Trustee all fees due and payable pursuant to 28 U.S.C. §1930(a)(6) and have filed quarterly reports as required by the U.S. Trustee, each through the period ending June 30, 2021, and have made arrangements to pay any remaining such fees when they become due and payable.

12. A report pursuant to Local Rule 3022-1 (the “Final Case Closing Report”) is attached to this Motion as **Exhibit B**.

### **BASIS FOR THE RELIEF REQUESTED**

13. Section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022 provide that once the case is “fully administered,” the court, on its own motion or on a motion of a party in interest, shall enter a final decree closing the case. *See* 11 U.S.C. § 350(a); Fed. R. Bankr. P. 3022. The Advisory Committee Note to Bankruptcy Rule 3022 provides factors that a court may consider to determine whether a case has been fully administered, such as:

- a) Whether the order confirming the plan has become final;
- b) Whether deposits required by the plan have been distributed;
- c) Whether the property proposed by the plan to be transferred has been transferred;
- d) Whether the debtor or the successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;
- e) Whether payments under the plan have commenced; and
- f) Whether all motions, contested matters, and adversary proceedings have been finally resolved.

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<sup>3</sup> Subject to the terms of the Plan, the Wind Down Debtors reserve the right to distribute all their remaining funds, in an amount not to exceed \$100,000, to one or more charitable organizations that qualify for exemption from federal income tax under Internal Revenue Code Section 501(c)(3), if the Plan Administrator determines in his reasonable business judgment that the costs and expenses expected to be incurred by the Wind Down Debtors in connection with distributing such funds to creditors would be unreasonable in relation to the amount of such funds.

1991 Advisory Comm. Note to Fed. R. Bankr. P. 3022.

14. These factors are considered to be an aid that serves to insure that there is no unfinished business before the court or in the case; no single factor is dispositive or required. *In re Avaya, Inc.*, No. 19-cv-5987 (AJN), 2020 WL 5051580, \*2 (S.D.N.Y. Apr. 30, 2020); *In re Kliegl Bros. Universal Elec. Stage Lighting Co., Inc.*, 238 B.R. 531, 542 (Bankr. E.D.N.Y. 1999).

15. Additionally, courts may consider whether the plan has been “substantially consummated.” *See In re Johnson*, 402 B.R. 851, 856 (Bankr. N.D. Ind. 2009) (considering substantial consummation as a factor in determining whether to close a case); *In re Gates Cmty. Chapel of Rochester, Inc.*, 212 B.R. 220, 224 (Bankr. W.D.N.Y. 1997) (same); *In re BankEast Corp.*, 132 B.R. 665 (Bankr. D.N.H. 1991) (same).

16. The Chapter 11 Cases have been fully administered within the meaning of Bankruptcy Code Section 350(a), Bankruptcy Rule 3022, and the Confirmation Order. Among other things:

- the Confirmation Order has become final;
- the Plan was substantially consummated on the Effective Date;
- the claims reconciliation process has been completed;
- substantially all property of the Wind Down Debtors has been distributed;
- the Plan Administrator has assumed management of any property of the Wind Down Debtors; and

17. As such, the Court should issue a final decree closing the Chapter 11 Cases.

**NOTICE**

18. Notice of this Motion has been provided to: (i) the U.S. Trustee, (ii) the entities on the Master Service List, as defined in the Final Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c), 2002(m) and 9007 Implementing Certain Notice and Case Management, and Administrative Procedures [Docket. No. 207], and (iii) all parties that, as of the filing of this Motion, have requested notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002.

**CONCLUSION**

WHEREFORE, the Wind Down Debtors respectfully request the Court enter an order, substantially in the form attached hereto as **Exhibit A**; (i) closing the Chapter 11 Cases, and (ii) granting such other and further relief as the Court may deem proper.

Dated: September 22, 2021

*/s/ Steven J. Reisman*

Steven J. Reisman

James V. Drew

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**Exhibit A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:

BARNEYS NEW YORK, INC., *et al.*,<sup>1</sup>

Debtors.

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)  
) Chapter 11  
)

) Case No. 19-36300 (CGM)  
)

) (Jointly Administered)  
)

**FINAL DECREE PURSUANT TO PURSUANT TO SECTION 350 OF THE  
BANKRUPTCY CODE AND RULE 3022 OF THE FEDERAL RULES OF  
BANKRUPTCY PROCEDURE CLOSING THE DEBTORS' JOINTLY  
ADMINISTERED CHAPTER 11 CASES**

Upon the Motion dated September 22, 2021 (the “Motion”) of the Wind Down Debtors for entry of a final decree pursuant to section 350(a) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 3022 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 3022-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”), closing the above-captioned chapter 11 cases (the “Chapter 11 Cases”) and granting related relief, all as more fully described in the Motion; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334 and the Plan and Confirmation Order; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b) that the Court may decide; and the Court having found that venue of this proceeding in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409 and the Confirmation Order; and there being due and sufficient notice of the Motion and the opportunity to object thereto; and, after due deliberation, the Court having found and concluded

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<sup>1</sup> The Wind Down Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Barneys New York, Inc. (1818); Barney’s Inc. (2980); BNY Catering, Inc. (4434); BNY Licensing Corp. (4177); and Barneys Asia Co. LLC (0819). The location of the Wind Down Debtors’ service address is c/o Christopher A. Good, as Plan Administrator, M3 Advisory Partners, LP, 1700 Broadway, 19th Floor, New York, NY 10019.

that (a) the relief sought in the Motion and granted herein is in the best interests of the Debtors, their estates and creditors, and all parties-in-interest and (b) the legal and factual bases set forth in the Motion demonstrate sufficient and just cause for the relief granted herein; it is HEREBY ORDERED THAT:

1. The Motion is granted as provided herein.
2. Pursuant to section 350(a) of the Bankruptcy Code and Bankruptcy Rule 3022, a final decree is hereby entered in the cases of the Wind Down Debtors and such cases are closed; *provided, however* that the Court shall retain such jurisdiction as is provided for in the Plan, which provides for the retention of the Court's exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases and the Plan; and entry of this Final Decree is without prejudice to the rights of the Plan Administrator or any party in interest to seek to reopen the Chapter 11 Cases for good cause shown.
3. The Final Case Closing Report of the Plan Administrator attached as Exhibit B to the Motion is approved.
4. In the event the Plan Administrator receives any proceeds from any assets of the Wind Down Debtors after the closing of the Chapter 11 Cases, the Plan Administrator is authorized to distribute such proceeds in accordance with the Plan without reopening the Chapter 11 Cases.
5. The Plan Administrator shall reserve sufficient funds to pay the United States Trustee the appropriate amount of any outstanding quarterly fees pursuant to 28 U.S.C. § 1930 incurred through the date of this Order.
6. The Plan Administrator is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

7. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_, 2021

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THE HONORABLE CECILIA G. MORRIS  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

**Final Case Closing Report**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	
	)	Chapter 11
	)	
BARNEYS NEW YORK, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 19-36300 (CGM)
	)	
Debtors.	)	(Jointly Administered)
	)	

**FINAL CASE CLOSING REPORT**

To the best of my knowledge and belief, the following is a breakdown in these cases:

FEES AND EXPENSES (amounts paid from case inception through September 8, 2021)

\$8,780,649	FEES for ATTORNEYS for DEBTORS <sup>2</sup>
\$9,984,452	OTHER PROFESSIONAL FEES and ALL EXPENSES
N/A	TRUSTEE FEE (if applicable)
N/A	FEE for ATTORNEY for TRUSTEE (if applicable)

DISTRIBUTIONS

10% to Holders of Allowed Administrative Claims and Allowed Priority Tax Claims	% DIVIDEND PAID TO DATE
To be determined	FUTURE DIVIDENDS (check if % of future dividend under plan not yet able to be determined)
Yes, subject to certain holdbacks (See Motion, ¶ 10)	INITIAL DISTRIBUTION UNDER THE PLAN COMPLETED
N/A	OTHER: (explain)

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<sup>2</sup> Includes fees and expenses of legal professionals retained by the Debtors pursuant to section 327 of the Bankruptcy Code.

Dated: September 22, 2021

/s/ Steven J. Reisman

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